

**United States District Court**

For the Northern District of California

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6 MARGIE CHERRY and ESTORIA CHERRY,  
7 on behalf of themselves and all others similarly  
8 situated,

9  
10 Plaintiffs,

11 v.  
12  
13 THE CITY COLLEGE OF SAN FRANCISCO  
14 (“City College”) LAWRENCE WONG, in his  
15 official capacity as President of the Board of  
16 Trustees, MILTON MARKS, III, in his official  
17 capacity as Vice-President of the Board of  
18 Trustees, DR. NATALIE BERG, JOHNNIE  
19 CARTER, JR., DR. ANITA GRIER, JULIO J.  
20 RAMOS, RODEL E. RODIS, in their official  
21 capacities as members of the Board of  
22 Trustees, and DR. PHILIP R. RAY, JR., in his  
23 official capacity as Chancellor,

24 Defendants.  
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26 No. C 04-04981 WHA

27  
28 **FURTHER ORDER RE  
DEFENSE RESPONSE TO  
LIST OF BARRIERS**

29 To make sure there is no doubt as to what is required, defendants’ response to plaintiffs  
30 list of barriers shall be organized as follows. Although plaintiffs’ list is long, we are so far in  
31 the case now, defendants should be able to respond forthwith. As to each item, defendants shall  
32 provide the following admissions or denials.  
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1     Question # 1: As to each item on plaintiffs' list, defendants must first state whether they admit  
2     the physical noncompliant condition claimed exists, *i.e.*, whether the actual condition complies  
3     or not with ADAAG/UFAS on the assumption, solely for the sake of argument, that those  
4     standards are applicable. State either "Admit" or "Deny." Any admission will be completely  
5     without prejudice to any defense argument that ADAAG/UFAS do *not* apply to any item or  
6     group of items and the jury will be so advised.

7     Question # 2: The second question to be answered is the issue reserved above, namely whether  
8     defendants admit that either ADAAG or UFAS apply to the item. State "Admit" or "Deny."  
9     An admission on this point will be without prejudice to the further issue whether any such  
10    violation necessarily means strict liability, an issue that will be separately determined as a  
11    question of law. If it makes a difference, defendants can admit only as to ADAAG and deny as  
12    to UFAS (or vice versa).

13    Question # 3: The third question to be answered is whether defendants admit that the item  
14    alone or in conjunction with other items would deny class members access to services,  
15    programs and activities were it not for defendants' asserted programmatic cures. Any  
16    admission here will be without prejudice to defendants' contention that programmatic cures do  
17    in fact provide the required access by class members and the jury will be so advised.

18    Question # 4: The fourth question to be answered is whether defendants admit that the item  
19    alone or in conjunction with other items denies access by class members even taking into  
20    account defendants' programmatic cures. If this is denied defendants should state why the cure  
21    is sufficient. These reasons can be briefly and separately stated in an appendix.

22            In short, the response to be provided by defendants will look like this, just taking limited  
23    fictional responses:

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## United States District Court

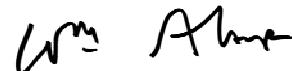
For the Northern District of California

	Question #1	Question #2	Question #3	Question #4
AIRPORT CAMPUS (ONE BLDG)				
* * *				
Computer Room				
Door—does not have accessible operating hardware	Admit	Deny	Deny	Deny—see Reason 1
Electrical Lab				
Door—inside strike-side clearance does not meet 12" as required	Admit	Deny	Admit	Deny—see Reason 1
—does not have accessible operating hardware	Admit	Admit	Admit	Deny—see Reason 2
And so on . . .				

Please do not "deny" for lack of information and belief. So much investigation and time have gone into this case that counsel should now be able to admit or deny as to each item and question. On the assumption that counsel will respond in good faith, this order extends the time for defendants' response to **DECEMBER 23 AT NOON**.

**IT IS SO ORDERED.**

Dated: December 13, 2005



WILLIAM ALSUP  
UNITED STATES DISTRICT JUDGE